

### Remarks

In the present application, claims 1-8 are subject to a restriction requirement and claims 9-13 have been added via the present Response. With entry of the present amendments, claims 1-13 are now pending. The Examiner has divided claims 1-8 into Groups I, II and III asserting that the inventions claimed in these groups are distinct for several reasons.

The applicant provisionally elects for further prosecution the claims of Group I, namely claims 1 and 2. The applicant also respectfully traverses the requirement for restriction, and requests for its reconsideration and withdrawal.

In the Office Action, the Examiner states that the Group I and Group II claims are related as process and apparatus for its practice. The Examiner further states that the inventions set forth in these claims are distinct because the process claimed in claims 3-5 can be used to practice a materially different process from that performed by the recited apparatus, such as, "to regenerate a conditioning tank other than a water softener (e.g. a cation exchanger used to remove heavy metals from water)." Further, the Examiner states that, "this system could be used with a single treatment tank, instead of a pair of the pair of tanks required by Group II."

In view of the amendments to the claims, it is respectfully submitted that this distinction has been eliminated. As amended, claims 1 and 2 of Group I are directed to a brine valve mechanism for controlling the supply of brine to a fluid treatment tank. Further, claims 3-5 of Group II, as amended, are directed to a method of operating a fluid treatment system that includes at least one fluid treatment tank. With inclusion of the present amendments, Groups I and II both call for treating tanks other than water softening tanks and both groups include the use of at least one tank. As such, it is respectfully submitted that the claims of Group I and the claims of Group II are interrelated and that indeed only one invention is being claimed.

The Examiner also states that the claims of Group I and III are related as combination and subcombination. Further, the Examiner states that the subcombination has utility by itself or in other combinations. Specifically, the Examiner states that the subcombination claimed in claims 6-8 has separate utility. It is respectfully submitted that in view of the amendments to the claims, the invention of claims 6-8 is interrelated to that of Group I, claims 1-2, by way of both Groups being directed to a fluid treatment system. As such, only one invention is being claimed.

Accordingly, the applicant respectfully requests that the Examiner withdraw the restriction requirement and that he concurrently examine the Groups I, II and III claims. The avowed purpose of the Patent and Trademark Office in requiring election, whether part of a species or invention restriction, is the avoidance of a burdensome examination, i.e., and to avoid

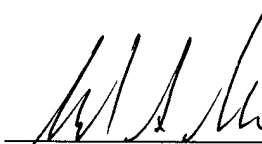
multiple searches, etc. However, MPEP § 803 provides that, if the search and examination of the entire application can be made without serious burden, the Examiner is encouraged to examine it on the merits even if it is considered to include claims of two different or independent inventions.

It is respectfully submitted that the examination of all the claims in this application will not place an undue burden on the PTO. The Examiner asserts that the Group I claims which are drawn to system for controlling the supply of brine to a conditioning tank, are classified in class 210, subclass 191, whereas claims 3-5 are drawn to a method of operating a water treatment system that includes a pair of water softener tanks, classified in class 210, subclass 670 and, whereas, claims 6-8 are drawn to a mechanism for producing a fluid pulse in a conduit, in order to draw solution from a reservoir, classified in class 137, subclass 511. If Group I, as amended, claims are examined first, the Examiner will have to examine the classes which include Groups II and III. It is believed that in order to thoroughly search for a brine valve mechanism which controls the supply of brine to a fluid treatment tank, the Examiner will have to examine class 210, subclass 191 as well as class 137, subclass 511. Since these classes will requiring searching with respect to the elected Group, there will be no undue burden to search these classes with respect to the claims of Groups II and III.

In view of the above, the applicant respectfully requests that the Examiner withdraw the restriction requirement and that he concurrently examine the Group I, Group II and Group III claims.

Respectfully submitted,

Date: 3/8/04



Michael A. Miller

Reg. No.: 50,732

Telephone: 216-241-6700  
Fax: 216-241-8151